

REMARKS

Applicant appreciates the thorough review by the Examiner and respectfully requests reconsideration based upon the amendments and the remarks contained herein. In the previous final office action, the Examiner rejected Claims 33-37, 47-49 and 53 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,989,230 ("Frassica") and Claim 54 under 35 U.S.C. 103(a) as being unpatentable over Frassica. Applicant submits the following discussion in rebuttal of the rejections.

I. FRASSICA FAILS TO DISCLOSE A "MESH MEMBER."

The stent disclosed in Frassica does not comprise a mesh member as recited in Independent Claims 33 and 47. In the previous action, the Examiner asserts that the stent disclosed in Column 19 of Frassica comprises a mesh member "by virtue of the fact that it is a stent." (Action, Pg. 5). The proposed justification for this comment is that the general discussion of stents in Column 5, lines 40 to 46 of Frassica describes them as a "metallic mesh device," which appears to suggest that all stents comprise mesh. However, Applicant disagrees. The passage in Column 5, lines 40 to 46 is technically inaccurate, because, in fact, mesh stents are only one type of stent and it is incorrect to say that all stents are mesh stents.

It is well known in the art that not all stents are mesh stents. As evidence for this assertion, Applicant encloses the entry for "stent" from Dorland's Illustrated Medical Dictionary. As discussed therein, it is clear that only certain types of stents are made from mesh. The entry states that a stent is a "slender rod like or thread like device" and that an intravascular stent is a "metal wire or tube". It is only stated in regard to the Palmaz stent that it comprises a "rigid wire mesh". Accordingly, it is clear that only some types of stent are mesh and thus, the action has not sufficed to show that Frassica

anticipates Claims 33 and 47.

Moreover, it is immediately evident from a proper inspection of Frassica Figs. 16 and 17 that the particular stent referred to in this embodiment is not a mesh stent. Figures 16 and 17 do not show any apertures in the tube 302 and, therefore, it can not be a mesh stent. Furthermore, in Column 19, line 20, the stent is described as being "a tube" and there is no reference to any apertures in the tube. Moreover, since the tube is made from polyurethane (see column 19, line 20) it is clearly talking about a different type of stent from the stent referred to in column 5, lines 40 to 46 of Frassica which states that a stent is "metallic". This demonstrates that the embodiments shown in Figures 16 and 17 are different from the stents referred to in column 5 and it would be erroneous to import the features of one stent into the features of another. For these reasons, Frassica fails to disclose an intravascular stent comprising a "mesh member" as recited in Claims 33 and 47 and, thus, the rejection should be withdrawn.

II. FRASSICA FAILS TO DISCLOSE A HELIX ANGLE BETWEEN 5° & 16°.

Frassica fails to disclose an intravascular stent having an internal helical formation having a *helix angle of between 5 and 16 degrees* as recited in Claims 33 and 47. Support for this amendment can be found in the specification at Page 3, Paragraph 3. In the previous action, the Examiner asserts that the reinforcement member 310 of the embodiment shown in Figures 16 and 17 of Frassica is equivalent to the "internal helical formation" or the vane recited in the claims. Even if this can be accepted, there is no disclosure that the reinforcement member 310 has a helix angle of between 5 and 16 degrees. In fact, Frassica fails to provide any discussion of the specific helix angle of the reinforcement member 310 (however, there is reference to the ratio of thread pitch to the circumference of the thread diameter of thread 303, but this is an entirely separate component from the

reinforcement member 310). Inspection of Figure 17, however, indicates that the helix angle is well above 50 degrees and, therefore, far outside the range of 5 to 16 degrees. For these additional reasons, Frassica fails to disclose all elements of Claims 33 and 47.

Lastly, the specific helix angle of Claims 33 and 47 is not obvious. Rather, the helix angle of the present invention provides many advantages. A helix angle having an internal helical formation being between 5 and 16 degrees results in the smoothest possible flow of fluid passing through the scent. In other words, this helix angle allows fluid to pass through with the lowest level of turbulence and dead regions, thereby providing positive therapeutic effects. For example, if the fluid comprises blood, then the reduction in blood turbulence reduces the instance of arteriosclerosis. Accordingly, Frassica would not render Claims 33 and 47 obvious.

CONCLUSION

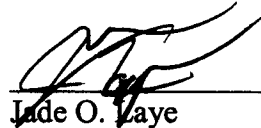
Applicant respectfully requests reconsideration of the pending claims. Should the Examiner feel a telephone conference would expedite the resolution of the issues, he is respectfully requested to contact the undersigned.

In the course of the foregoing discussion, Applicant has focused on particular claim elements. This discussion, however, should not be interpreted to mean the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each claim limitation must be considered when determining the patentability of the claims. There may also be other distinctions between the claims and the prior art that have yet to be raised, but that may be raised in the future. Unless Applicant has specifically stated that an amendment was made to distinguish the prior art, it was the intent of the amendment to further clarify and better define the claimed invention and was not for the purpose of patentability.

In view of the remarks previously submitted, Applicant respectfully submits the application is in condition for allowance. Accordingly, the issuance of a Notice of Allowance in due course is respectfully requested.

Respectfully submitted,

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